

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

INTERNATIONAL FRANCHISE
ASSOCIATION, INC.; CHARLES
STEMPLER; KATHERINE LYONS;
MARK LYONS; MICHAEL PARK; and
RONALD OH,

Plaintiffs,

v.

CITY OF SEATTLE, a municipal
corporation; and FRED PODESTA,
Director of the Department of Finance and
Administrative Services,

Defendants.

NO. 2:14-CV-00848-RAJ

National Employment Law
Project's Motion for Leave
to File Amicus Brief

NOTED FOR CONSIDERATION:
October 17, 2014

The National Employment Law Project ("NELP") respectfully moves, pursuant to the Court's inherent authority, to file a brief as *amicus curiae* regarding the economic impact on employers, workers and the economy of the Seattle minimum wage ordinance as such impacts relate to the irreparable injury and the public interest prongs of the preliminary injunction standard. In particular, the brief responds to the erroneous assertions regarding such impacts

1 made in the opposing amicus brief of the Chamber of Commerce of the United States of
2 America, et al. A copy of the proposed brief is attached as Exhibit A to this motion.

3 As detailed in the accompanying Declaration of Rebecca Smith, counsel for the National
4 Employment Law Project, Pursuant to this Court's Standing Order on Amicus Briefs, has met
5 and conferred with counsel for plaintiffs and with counsel for defendants, and with counsel for
6 the two other proposed amici supporting the position of defendants. First, counsel for both sets
7 of parties – plaintiffs and defendants – do not object to the filing of this amicus brief. Second,
8 based on those meet and confer sessions, we certify that our proposed amicus brief addresses a
9 narrow issue and provides argument and authority that is not duplicative of that presented by any
10 party.
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13 **I. IDENTIFY AND INTEREST OF AMICUS**

14 NELP is a national research and policy organization known for its expertise on workforce
15 issues. Relevant to this matter, NELP has worked with most of the cities in the United States
16 that have adopted higher city minimum wages in recent years and is generally regarded as a
17 national expert on such policies. As a result, NELP is familiar with the economic experiences of
18 cities with higher local minimum wages, and with the research evidence on the impact that such
19 policies have had on employers, workers and local economies. We believe that this information
20 is likely to be helpful to the Court, is not being presented by any other party, and relates directly
21 to the irreparable injury and public interest factors of the preliminary injunction standard. NELP
22 also has an interest in ensuring that the Seattle minimum wage ordinance is fully enforced
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1 according to its terms, and that the constitutional and other challenges to its implementation be
2 rejected as without legal basis.

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4 **II. THE PROPOSED NATIONAL EMPLOYMENT LAW PROJECT AMICUS**
5 **BRIEF PROVIDES FACTS REGARDING THE LIKELY ECONOMIC IMPACT**
6 **OF THE SEATTLE ORDINANCE, BASED ON ECONOMIC RESEARCH AND**
7 **THE EXPERIENCES OF OTHER CITIES, THAT RELATES TO THE**
8 **PRELIMINARY INJUNCTION FACTORS, IS NOT BEING PRESENTED BY**
9 **ANY OTHER PARTY SUPPORTING DEFENDANTS, AND RESPONDS TO THE**
10 **ASSERTIONS IN THE CHAMBER OF COMMERCE AMICUS BRIEF**
11 **SUPPORTING PLAINTIFFS**

12 The proposed NELP amicus brief provides facts regarding the likely economic impact of
13 the Seattle minimum wage ordinance on employers, workers and the economy, based on
14 economic research on minimum wage laws and the experiences over the past decade of cities
15 such as San Francisco, San Jose, Santa Fe, SeaTac and others that have adopted such local
16 measures. This is relevant factual information that NELP is well qualified to present drawing on
17 our extensive experience with minimum wage policy and our work in other cities. It is
18 information that relates to plaintiffs' claims regarding the irreparable injury and public interest
19 prongs of the preliminary injunction standard, and that is not being addressed by defendants or
20 by either of the other amicus briefs supporting the defendants. This information is also important
21 for responding to the erroneous assertions regarding economic impact that have been made by
22 amici Chamber of Commerce, et al., who are supporting plaintiffs' position.

1 **III. REASONS WHY THE MOTION SHOULD BE GRANTED**

2 District courts possess the inherent authority to consider amicus briefs from non-parties
3 “concerning legal issues that have potential ramifications beyond the parties directly involved or
4 if the amicus has ‘unique information or perspective that can help the court beyond the help that
5 the lawyers for the parties are able to provide.’” *Skokomish Indian Tribe v. Goldmark*, 2013 WL
6 5720053, at *1 (W.D. Wash. 2013) (quoting *NGV Gaming, Ltd. V. Upstream Point Molate, LLC*,
7 355 F. Supp. 2d 1061, 1067 (N.D. Cal. 2005)). The role of an amicus is to assist the Court “in
8 cases of general public interest by making suggestions to the court, by providing supplementary
9 assistance to existing counsel, and by insuring a complete and plenary presentation of difficult
10 issues so that the court may reach a proper decision.” *Newark Branch, N.A.A.C.P. v. Harrison*,
11 940 F.2d 792, 808 (3d Cir. 1991). The Court has “broad discretion to appoint amicus curiae.”
12 *Skokomish Indian Tribe*, 2013 WL 5720053, at *1 (citation omitted).
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16 For the foregoing reasons, proposed amicus National Employment Law Project
17 respectfully submits that our motion for leave to file an amicus brief should be GRANTED and
18 the accompanying brief ACCEPTED for filing.
19

20 RESPECTFULLY SUBMITTED this 3rd day of October, 2014.
21

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Exhibit A

1 THE HONORABLE RICHARD A. JONES

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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 INTERNATIONAL FRANCHISE
11 ASSOCIATION, INC.; CHARLES
12 STEMLER; KATHERINE LYONS;
MARK LYONS; MICHAEL PARK; and
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16 corporation; and FRED PODESTA,
17 Director of the Department of Finance and
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18 Defendants.

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Project's Amicus Brief

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20 **Summary**

21 The amicus brief of the Chamber of Commerce of the United States of America, et al.
22 ("Chamber of Commerce Amicus"), filed in support of plaintiffs' motion for a preliminary
23 injunction, contends that the Seattle minimum wage ordinance will irreparably harm franchisee
24 employers and adversely affect the public interest, and that a preliminary injunction is therefore
25 warranted. Specifically, the Chamber of Commerce Amicus charges that the ordinance will
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1 impose unmanageable costs on franchisee employers in the City of Seattle, place them in an
2 untenable competitive posture with respect to other employers, and harm workers by causing
3 employers to hire fewer workers, especially younger workers.

4 However, as explained in this amicus brief submitted by the National Employment Law
5 Project, those claims are without factual basis, and fly in the face of the most rigorous economic
6 research on the impact of higher minimum wages as well as the real world experiences over the
7 past decade in cities that have successfully implemented higher local minimum wages.

8
9 Specifically (1) the most rigorous modern research on the impact of minimum wages shows that
10 they raise worker earnings with negligible adverse impact on employment levels; (2) as more and
11 more U.S. cities have enacted local minimum wages, the research has similarly shown that such
12 local measures have no adverse effect on jobs and implementation of higher local wages has
13 proven manageable for employers; (3) in locations where some employers are covered by a
14 higher minimum wage while others are not, the employers that are covered have *not* found
15 themselves placed at a competitive disadvantage – instead non-covered employers have
16 generally found themselves forced to match the higher wages in order to compete for employees;
17 and (4) the benefits for low-wage workers and their families of higher wages have been very
18 significant, reducing economic hardship, lifting workers out of poverty, and improving other life
19 outcomes. In light of these facts, it is clear that plaintiffs will not be irreparably harmed by
20 allowing the Seattle minimum wage ordinance to take effect, and that allowing the ordinance to
21 take effect will substantially benefit the public interest.
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1 **Interest of Amicus Curiae**

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3 The National Employment Law Project (NELP) is a national research and policy
4 organization known for its expertise on workforce issues. NELP works with federal, state and
5 local policymakers on matters ranging from unemployment insurance and workforce
6 development, to wage and hour and benefits policy. Relevant to this matter, NELP has worked
7 with most of the cities in the United States that have adopted higher city minimum wages in
8 recent years and is familiar with their economic experiences. NELP has an interest in ensuring
9 that the Seattle minimum wage ordinance is fully enforced according to its terms, and that the
10 constitutional and other challenges to its implementation be rejected as without legal basis.
11

12 **I. The Most Rigorous Research Shows That Higher Minimum Wages**
13 **Raise Worker Incomes without Reducing Employment**

14 The most rigorous research over the past 20 years – examining scores of state and local
15 minimum wage increases across the U.S. – demonstrates that these increases have had the effect
16 of raising workers’ incomes *without* reducing employment. This substantial weight of scholarly
17 evidence reflects a significant shift in the views of the economics profession, away from a former
18 view that higher minimum wages cost jobs. As Bloomberg News summarized in 2012:
19

20 [A] wave of new economic research is disproving those arguments about job losses and
21 youth employment. Previous studies tended not to control for regional economic trends
22 that were already affecting employment levels, such as a manufacturing-dependent state
23 that was shedding jobs. The new research looks at micro-level employment patterns for a
24 more accurate employment picture. The studies find minimum-wage increases even
25 provide an economic boost, albeit a small one, as strapped workers immediately spend
26 their raises.

1 “Raise the Minimum Wage,” Bloomberg News (Apr. 16, 2012).¹

2 The most sophisticated of the new wave of minimum wage studies, “Minimum Wage
3 Effects Across State Borders,” was published in 2010 by economists at the Universities of
4 California, Massachusetts and North Carolina in the prestigious *Review of Economics and*
5 *Statistics*. Arindrajit Dube, T. William Lester, and Michael Reich, “Minimum Wage Effects
6 Across State Borders: Estimates Using Contiguous Counties,” *The Review of Economics and*
7 *Statistics*, 92(4): 945–964 (Nov. 2010).² That study carefully analyzed minimum wage impacts
8 across state borders by comparing employment patterns in more than 250 pairs of neighboring
9 counties in the U.S. that had different minimum wage rates between 1990 and 2006 as the result
10 of being located in neighboring states with different minimum wages. This study’s innovative
11 approach of comparing neighboring counties on either side of a state line is generally recognized
12 as especially effective at isolating the true impact of minimum wage differences, since
13 neighboring counties otherwise tend to have very similar economic conditions, and has been
14 lauded as the state-of-the-art by the nation’s top labor economists such as Harvard’s Lawrence
15 Katz, MIT’s David Autor, and MIT’s Michael Greenstone. See NELP Summary, *supra* note 2, at
16 2. By contrast, studies such as those cited by the Chamber of Commerce that compare one state
17 to another – and especially those comparing states in different regions of the U.S. – cannot as
18 effectively isolate the impact of the minimum wage, because different states face different
19 economic conditions, of which varying minimum wage rates is but one.

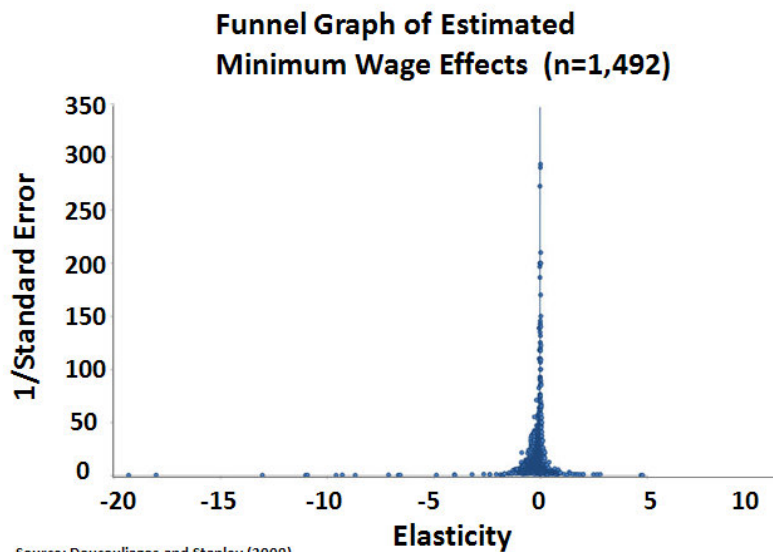
24 ¹ Available at [http://www.bloomberg.com/news/2012-04-16/u-s-minimum-wage-lower-than-in-lbj-era-](http://www.bloomberg.com/news/2012-04-16/u-s-minimum-wage-lower-than-in-lbj-era-needs-a-raise.html)
25 [needs-a-raise.html](http://www.bloomberg.com/news/2012-04-16/u-s-minimum-wage-lower-than-in-lbj-era-needs-a-raise.html)

26 ² A summary of the study prepared by NELP is available at
http://nelp.3cdn.net/98b449fce61fca7d43_j1m6iizwd.pdf

1 Consistent with a long line of similar research, the Dube, Lester & Reich study found no
2 difference in job growth rates in the data from the 250 pairs of neighboring counties – such as
3 Washington State’s Spokane County with Idaho’s Kootenai County where the minimum wage
4 was substantially lower -- and found no evidence that higher minimum wages harmed states’
5 competitiveness by pushing businesses across the state line.³
6

7 However, it is not simply individual state-of-the-art studies, but the whole body of the
8 most rigorous modern research on the minimum wage that now indicates that higher minimum
9 wages have had little impact on employment levels. This is most clearly demonstrated by
10 several recent “meta-studies” surveying research in the field. For example, a meta-study of 64
11 studies of the impact of minimum wage increases published in the British Journal of Labor
12 Relations in 2009 shows that the bulk of the studies find close to no impact on employment.
13 Hristos Doucouliagos & T.D. Stanley, “Publication Selection Bias in Minimum-Wage Research?
14 A Meta-Regression Analysis,” British J. of Indus. Relations, Vol. 47, Iss. 2, May 2009. This is
15 vividly illustrated by a graph from the meta-study showing the results clustered around zero:
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23 ³ Similar, sophisticated new research has also focused in particular on teen workers – a very small segment
24 of the low-wage workforce affected by minimum wage increases, but one that is presumed to be especially
25 vulnerable to displacement because of their lack of job tenure and experience. However, the research has
26 similarly found no evidence that minimum wage increases in the U.S. in recent years have had any adverse
effect on teen employment. See Sylvia Allegretto, Arindrajit Dube, and Michael Reich “Do Minimum
Wages Reduce Teen Employment?,” Industrial Relations, vol. 50, no. 2 (Apr. 2011). NELP Summary
available at http://nelp.3cdn.net/eb5df32f3af67ae91b_65m6iv7eb.pdf



Another recent meta-study of the minimum wage literature demonstrates similar results. Paul Wolfson & Dale Belman, “What Does the Minimum Wage Do?,” Upjohn Inst. for Employ. Res. (2014).

Amicus Chamber of Commerce, which fails to cite this substantial body of economic evidence, relies instead on a review of the minimum wage literature by David Neumark and William Wascher, which erroneously claims that most minimum wage studies point towards job losses. However, as more careful economists have noted, the Neumark and Wascher survey is not reliable because it is subjective (rather than a scientific meta-study), relies in large part on studies of wage increases in foreign countries, and fails to include most of the most sophisticated and recent studies. John Schmitt, “Studying the Studies on the Minimum Wage,” Center for Economic & Policy Research (Feb. 26, 2013).⁴

⁴ Available at <http://www.cepr.net/index.php/blogs/cepr-blog/studying-the-studies-on-the-minimum-wage> . See also John Schmitt, “Why Does the Minimum Wage Have No Discernible Impact on Employment?,”

1 Further underscoring how minimum wage increases are simply not a major factor
2 affecting job growth, economists at the Center for Economic & Policy Research and Goldman
3 Sachs have noted that the U.S. states that have raised their minimum wages above the minimal
4 federal level are enjoying stronger job growth this year than those that have not. Center for
5 Economic & Policy Research, “2014 Job Creation Faster in States that Raised the Minimum
6 Wage.”⁵
7

8 **II. The Evidence from Cities That Have Adopted Significantly Higher Local**
9 **Minimum Wages Similarly Shows That They Have Not Cost Jobs and That**
10 **Implementation Has Proven Manageable for Employers**

11 Over the past decade, growing numbers of U.S. cities have, like Seattle, pursued higher
12 minimum wages at the local level, in an effort to respond to higher local living costs and to bring
13 the minimum wage closer to a self-sufficiency level. See NELP, “Minimum Wage Laws and
14 Proposals for Major U.S. Cities.”⁶ The experiences of these cities – and the most rigorous
15 economic research on the impact of city wage laws – have shown that they have raised wages
16 broadly without slowing job growth or hurting local employers.

17 The two U.S. cities that have had higher local minimum wages for the longest period are
18 San Francisco, California and Santa Fe, New Mexico. Both adopted significantly higher local
19 minimum wages in 2003 and the impact of the minimum wages has been the subject of
20 sophisticated economic impact studies. In San Francisco, a 2007 study by University of
21 California researchers gathered employment and hours data from restaurants in San Francisco as
22

23 Center for Econ. & Policy Research, at 6-7 (Feb. 2013), available at
24 <http://www.cepr.net/documents/publications/min-wage-2013-02.pdf>.

25 ⁵ Available at [http://www.cepr.net/index.php/blogs/cepr-blog/2014-job-creation-in-states-that-raised-the-](http://www.cepr.net/index.php/blogs/cepr-blog/2014-job-creation-in-states-that-raised-the-minimum-wage)
26 [minimum-wage](http://www.cepr.net/index.php/blogs/cepr-blog/2014-job-creation-in-states-that-raised-the-minimum-wage)

⁶ Available at [http://raisetheminimumwage.org/pages/minimum-wage-laws-and-proposals-for-major-u.s.-](http://raisetheminimumwage.org/pages/minimum-wage-laws-and-proposals-for-major-u.s.-cities)
[cities](http://raisetheminimumwage.org/pages/minimum-wage-laws-and-proposals-for-major-u.s.-cities)

1 well as from surrounding counties that were not covered by the higher minimum wage and found
2 that the higher wage had not led San Francisco employers to reduce either their employment
3 levels or employee hours worked. Michael Reich, Arindrajit Dube & Suresh Naidu, “The
4 Economic Effects of a Citywide Minimum Wage,” Univ. of Calif.-Berkeley (2007).⁷ A follow-
5 up 2014 study examined the combined impact on San Francisco employers of the city’s
6 minimum wage ordinance and of other city compensation mandates that cumulatively raised
7 employment costs 80% above the level of the federal minimum wage. The study again found no
8 adverse affect on employment levels or hours, and found that food service jobs – the sector most
9 heavily affected – actually grew 17% faster in San Francisco than surrounding counties during
10 that period. Michael Reich, Ken Jacobs & Miranda Dietz (eds.), When Mandates Work: Raising
11 Labor Standards at the Local Level, Univ. of Calif. Press (2014), at 31.⁸
12

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14 In Santa Fe, a similar 2006 study after the city raised its minimum wage 65% above the
15 state rate compared job growth in Santa Fe with that in Albuquerque (which at that time did not
16 have a higher city minimum wage). It determined that “[o]verall, this analysis found that the
17 living wage had no discernible impact on employment per firm, and that Santa Fe actually did
18 better than Albuquerque in terms of employment changes.” “Measuring the Employment
19 Impacts of the Living Wage Ordinance in Santa Fe, New Mexico,” Univ. of New Mexico,
20 Bureau of Bus. & Econ. Research (June 30, 2006).⁹
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23 ⁷ Available at: http://www.irle.berkeley.edu/cwed/wp/economicimpacts_07.pdf

24 ⁸ Available at <http://irle.berkeley.edu/publications/when-mandates-work/>. See also “San Francisco’s
25 Higher Minimum Wage Hasn’t Hurt the Economy,” Business Week (January 22, 2014), available at
26 <http://www.businessweek.com/articles/2014-01-22/san-franciscos-higher-minimum-wage-hasnt-hurt-the-economy>;
“S.F. praised as model for U.S. on increasing minimum wage,” SF Gate (January 28, 2014),
available at <http://www.sfgate.com/politics/article/S-F-praised-as-model-for-U-S-on-increasing-5183378.php>

⁹ Available at: <http://bber.unm.edu/pubs/EmploymentLivingWageAnalysis.pdf>

1 Finally, a sophisticated 2011 study of higher minimum wages in San Francisco, Santa Fe
2 and Washington, D.C. compared employment impacts to control groups in surrounding suburbs
3 and cities. It similarly found that “The results for fast food, food services, retail, and low-wage
4 establishments . . . support the view that citywide minimum wages can raise the earnings of low-
5 wage workers, without a discernible impact on their employment” John Schmitt & David
6 Rosnick, “The Wage and Employment Impact of Minimum-Wage Laws in Three Cities,” Center
7 for Econ. & Policy Research (Mar. 2011), at 1.¹⁰ For a helpful overview of this literature on the
8 impact of city minimum wages, see Michael Reich, Ken Jacobs & Annette Bernhardt, “Local
9 Minimum Wage Laws: Impacts on Workers, Families and Businesses: Report prepared for the
10 Seattle Income Inequality Advisory Committee,” (Mar. 2014), at 17-19.¹¹

12 The Chamber of Commerce amicus brief cites a survey of Seattle businesses by the
13 restaurant industry-backed Employment Policies Institute in which large percentages of Seattle
14 employers predict that they will be forced to reduce employee hours or reduce job positions in
15 order to adjust to the higher minimum wage. Chamber of Commerce Amicus at p. 8. It is not
16 surprising that employers who are uncertain about the future might make such predictions. But
17 when higher minimum wages are actually phased in, the real-world data from other cities shows
18 that such predictions have not been borne out.

20 For example, in San Jose, California, business groups made similar predictions before the
21 voters in 2012 approved raising the city’s minimum wage. But the actual results did not bear out
22 those fears. As the Wall Street Journal reported this spring, “Fast-food hiring in the region
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25 ¹⁰ Available at <http://www.cepr.net/documents/publications/min-wage-2011-03.pdf>

26 ¹¹ Available at <http://murray.seattle.gov/wp-content/uploads/2014/03/UC-Berkeley-IIAC-Report-3-20-2014.pdf>

1 accelerated once the higher wage was in place. By early this year, the pace of employment gains
2 in the San Jose area beat the improvement in the entire state of California.” Eric Morath, “What
3 Happened to Fast-Food Workers When San Jose Raised the Minimum Wage? Hold the Layoffs”,
4 *Wall Street Journal* (April 9, 2014).¹² USA Today similarly found, “Interviews with San Jose
5 workers, businesses, and industry officials show [the city minimum wage] has improved the lives
6 of affected employees while imposing minimal costs on employers.” Paul Davidson, “In San
7 Jose, Higher Minimum Wage Pays Benefits,” *USA Today* (June 14, 2014).¹³

9 The same pattern of dire predictions followed by manageable real world implementation
10 was repeated this past year when SeaTac, Washington phased in its \$15 minimum wage – the
11 nation’s first at that level. As the Seattle Times reported, “For all the political uproar it caused,
12 SeaTac’s closely watched experiment with a \$15 minimum wage has not created a large chain
13 reaction of lost jobs and higher prices” Amy Martinez, “\$15 Wage Slowly Takes Hold in
14 SeaTac,” *Seattle Times* (June 3, 2014).¹⁴ The Washington Post confirmed “Those who opposed
15 the \$15 wage in SeaTac and Seattle admit there has been no calamity so far.” Dana Milbank,
16 “No Calamity Yet as SeaTac, WA, Adjusts to \$15 Minimum Wage,” *Washington Post* (Sept. 5,
17 2014).¹⁵

23 ¹² Available at: [http://blogs.wsj.com/economics/2014/04/09/what-happened-to-fast-food-workers-when-](http://blogs.wsj.com/economics/2014/04/09/what-happened-to-fast-food-workers-when-san-jose-raised-the-minimum-wage/)
24 [san-jose-raised-the-minimum-wage/](http://blogs.wsj.com/economics/2014/04/09/what-happened-to-fast-food-workers-when-san-jose-raised-the-minimum-wage/)

24 ¹³ Available at: [http://www.usatoday.com/story/money/business/2014/06/14/minimum-wage-san-](http://www.usatoday.com/story/money/business/2014/06/14/minimum-wage-san-jose/9968679/)
25 [jose/9968679/](http://www.usatoday.com/story/money/business/2014/06/14/minimum-wage-san-jose/9968679/)

25 ¹⁴ Available at: http://seattletimes.com/html/localnews/2022905775_seatacprop1.xml.html

26 ¹⁵ Available at: [http://www.washingtonpost.com/opinions/dana-milbank-no-calamity-yet-as-seatac-wash-](http://www.washingtonpost.com/opinions/dana-milbank-no-calamity-yet-as-seatac-wash-adjusts-to-15-minimum-wage/2014/09/05/d12ba922-3503-11e4-9e92-0899b306bbea_story.html)
[adjusts-to-15-minimum-wage/2014/09/05/d12ba922-3503-11e4-9e92-0899b306bbea_story.html](http://www.washingtonpost.com/opinions/dana-milbank-no-calamity-yet-as-seatac-wash-adjusts-to-15-minimum-wage/2014/09/05/d12ba922-3503-11e4-9e92-0899b306bbea_story.html)

1 **III. Coverage Distinctions Have Not Proven Harmful for Employers Subject to a**
2 **Higher Minimum Wage or Faster Phase-In**

3 The Chamber of Commerce argues that if the ordinance goes into effect and requires
4 franchisee employers in Seattle that are part of franchise networks with over 500 employees to
5 pay a higher minimum wage sooner than small independent employers, those franchisee
6 employers will be placed in an untenable competitive posture. Like the Chamber's other dire
7 warnings, this prediction is belied by real-world evidence.
8

9 It is not uncommon for some employers to be subject to differing minimum wage rates
10 from other employers with which they compete. This happens frequently, for example, when
11 city or state boundaries mean that certain employers are subject to a higher city or state minimum
12 wage, while competitors located a short distance away are not. It also happens when large and
13 small employers are subject to differing wage rates, phase-ins, or coverage, as is the case under
14 many wage laws. See, e.g., federal Fair Labor Standards Act, 29 U.S.C. § 203(s)(1)(A)(ii)
15 (exempting smaller employers with less than \$500,000 in annual revenue); Minnesota minimum
16 wage law, Minn. Stat. 2012, § 177.24(1)(a) (differing rates for employers with more than
17 \$500,000 in annual sales and those with less); Santa Fe minimum wage ordinance, Santa Fe Ord.
18 #2003-8 (exempting employers with fewer than 25 employees until was amended in 2007); San
19 Francisco minimum wage ordinance, San Francisco Admin Code § 12R.4(c) (gradually phasing
20 in minimum wage for employers with fewer than 10 employees).
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23 Contrary to the predictions made by the Chamber of Commerce, actual experiences on
24 the ground shows that such differentials are manageable for employers. In particular,
25 experiences show that the employers that are not covered often feel pressure to raise wages in
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1 order to compete with their competitors that are covered, even though they are not legally
2 obligated to do so.

3 The classic illustration of this phenomenon is the much-reported impact of Washington
4 State's minimum wage – which is substantially higher than Idaho's – on fast food employers
5 along the Washington/Idaho border. Back in 2007, when Idaho's minimum wage was \$5.15 and
6 Washington's was 54% higher at \$7.93, the New York Times interviewed restaurant employers
7 and workers in small towns along the border:
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9 Nearly a decade ago, when voters in Washington approved a measure that would give
10 the state's lowest-paid workers a raise nearly every year, many business leaders
11 predicted that small towns on [the Washington] side of the state line would suffer.
12 But instead of shriveling up, small-business owners in Washington say they have
13 prospered far beyond their expectations. In fact, as a significant increase in the national
14 minimum wage heads toward law, businesses here at the dividing line between two
15 economies — a real-life laboratory for the debate — have found that raising prices to
16 compensate for higher wages does not necessarily lead to losses in jobs and profits.
17 Idaho teenagers cross the state line to work in fast-food restaurants in Washington, where
18 the minimum wage is 54 percent higher. That has forced businesses in Idaho to raise their
19 wages to compete.

20 “For \$7.93 an Hour, It's Worth a Trip Across a State Line,” *N.Y. Times* (Jan. 11, 2007).¹⁶

21 Similarly, under wage laws like Seattle's that exempt small employers, it is generally
22 recognized that such employers feel pressure to pay the higher wage anyway in order to compete
23 for workers, as the higher wage becomes the going rate expected in the labor market. Thus for
24 example, during the years during 2004-2007 when the Santa Fe minimum wage ordinance

25 ¹⁶ Available at: <http://www.nytimes.com/2007/01/11/us/11minimum.html?pagewanted=all>. Subsequent
26 reporting by the Spokane Spokesman-Review has further documented that far from hurting the Washington
State employers that must pay the significantly higher wage, the minimum wage has helped them recruit
employees and non-covered employers in Idaho have been forced to raise wages to compete. See
Spokesman-Review, “Vestal: For some, a higher wage makes good business sense” (Dec. 8, 2010),
available at: <http://www.spokesman.com/stories/2010/dec/08/for-some-a-higher-wage-makes-good-business-sense/>

1 exempted small businesses with fewer than 25 employees, the executive director of the Santa Fe
2 Alliance, the city's small business trade association, reported that "many smaller businesses
3 ha[d] been paying the minimum wage to keep good employees." "Santa Fe could delay
4 minimum wage increase but widen coverage," Associated Press (July 13, 2007). This fact led
5 the Santa Fe Alliance to ultimately endorse eliminating the small business exemption altogether.
6
7 *Id.*

8 **IV. Higher Wages from Minimum Wage Increases Have Very Significant Beneficial** 9 **Affects for Low-Income Individuals and Households**

10 The higher incomes that result from minimum wage increases have very direct and
11 tangible impacts on the lives of the workers affected and their families. Currently, wages are
12 falling in real terms for most of the labor force, see National Employment Law Project, "An
13 Unbalanced Recovery" (Aug. 2014),¹⁷ and low-wage workers and families in high cost cities like
14 Seattle are being squeezed between flat pay and rising rents and living costs. Higher city
15 minimum wages have proven an effective strategy for addressing this squeeze by raising pay
16 broadly across the bottom of the city economy. For example, over the decade that San
17 Francisco's minimum wage has been in effect, it has raised pay by more than \$1.2 billion for
18 more than 55,000 workers, and has permanently raised citywide pay rates for the bottom 10% of
19 the labor force. Local Minimum Wage Laws, *supra*, at 11-12 (citing Jacobs & Reich, "When
20 Mandates Work," *supra*). The widely recognized success of San Francisco's minimum wage has
21 led Mayor Ed Lee to place a proposal to follow Seattle's lead and raise the city's minimum wage
22 to \$15.00 on the November ballot.
23
24

25 ¹⁷ Available at [http://www.nelp.org/page/-/Reports/Unbalanced-Recovery-Real-Wage-Job-Growth-Trends-](http://www.nelp.org/page/-/Reports/Unbalanced-Recovery-Real-Wage-Job-Growth-Trends-August-2014.pdf?nocdn=1)
26 [August-2014.pdf?nocdn=1](http://www.nelp.org/page/-/Reports/Unbalanced-Recovery-Real-Wage-Job-Growth-Trends-August-2014.pdf?nocdn=1)

1 The higher pay resulting from minimum wage increases translates to a range of other
2 important improvements in the lives of struggling low-paid workers and their households. For
3 workers with the very lowest incomes, studies show that minimum wage increases lift workers
4 and their families out of poverty. See Arindrajit Dube, “Minimum Wages and the Distribution of
5 Family Incomes” (Dec. 2013), at 31 (“... robust evidence that minimum wages tend to reduce
6 the incidence of poverty, and also proportions with incomes under one-half or three-quarters of
7 the poverty line.”).¹⁸ Similarly, higher incomes for low-wage workers and their households
8 translate to improved educational attainment, health, and rates of crime and incarceration. For
9 example, a recent study by the National Institutes of Health determined that “[a]n additional
10 \$4000 per year for the poorest households increases educational attainment by one year at age 21
11 and reduces having ever committed a minor crime by 22% at ages 16-17.” William Copeland &
12 Elizabeth J. Costello, “Parents’ Incomes and Children’s Outcomes: A Quasi-Experiment,” Am.
13 Econ. J. Appl. Econ. (Jan. 2010), at 1. Another study found that raising California’s minimum
14 wage to \$13/hr by 2017 “would significantly benefit health and well-being. As a result of the
15 proposed law, about 7.5 million lower-income Californians could expect an increase in family
16 income. Californians would experience fewer chronic diseases and disabilities; less hunger,
17 smoking and obesity; and lower rates of depression and bipolar illness. In the long run, raising
18 the minimum wage would prevent the premature deaths of hundreds of lower-income
19 Californians each year.” Rajiv Bhatia, Human Impact Partners, “Health Impacts of Raising
20 California’s Minimum Wage” (May 2014), at 1. Yet another study found that high dropout rates
21 among low-income children can be linked to parents’ low-wage jobs and that youth in low-

26 ¹⁸ Available at https://dl.dropboxusercontent.com/u/15038936/Dube_MinimumWagesFamilyIncomes.pdf

1 income families have a greater likelihood of experiencing health problems, including obesity,
2 and they are more likely to bear children at a young age. Lisa Dodson & Randy Albelda, "How
3 Youth Are Put at Risk by Parents' Low-Wage Jobs," Center for Social Policy, Univ. of Mass.,
4 Boston, (Fall 2012), at 9-13.

5 **Conclusion**

6
7 For the foregoing reasons, and those presented in the briefs of defendants and of amici
8 Martina Phelps, et al., plaintiffs' motion for a preliminary injunction should be DENIED.

9
10 RESPECTFULLY SUBMITTED this 3rd day of October, 2014.

11 s/ Rebecca Smith

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